

AMENDED IN SENATE MARCH 26, 2007

SENATE BILL

No. 449

Introduced by Senator Aanestad

February 21, 2007

An act to amend Section 6254 of the Government Code, and to amend Section 293 of the Penal Code, relating to records of crime.

LEGISLATIVE COUNSEL'S DIGEST

SB 449, as amended, Aanestad. Crime records: victims of sex offenses.

The California Public Records Act requires state and local agencies to make public records available upon receipt of a request that reasonably describes an identifiable record not otherwise exempt from disclosure by express provisions of law, and upon the payment of fees to cover the associated costs. The act expressly exempts from disclosure the names and addresses of victims of specified crimes, at the victim's request or the victim's parent or guardian if the victim is a minor.

This bill would expand the category of crime victims whose names and addresses are not subject to disclosure under the act, to include additional sex crimes.

Existing law provides that the victim of a sex offense may request that his or her name and address not be a matter of public record, although the victim's name may be disclosed to certain law enforcement officials for official business, even if the victim requested to keep his or her name and address confidential.

This bill would expand the types of crimes deemed to be sex offenses that are subject to those disclosure limitations to include annoying or molesting a child under 18 years of age.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 6254 of the Government Code is amended
2 to read:
3 6254. Except as provided in Sections 6254.7 and 6254.13,
4 nothing in this chapter shall be construed to require disclosure of
5 records that are any of the following:
6 (a) Preliminary drafts, notes, or interagency or intra-agency
7 memoranda that are not retained by the public agency in the
8 ordinary course of business, if the public interest in withholding
9 those records clearly outweighs the public interest in disclosure.
10 (b) Records pertaining to pending litigation to which the public
11 agency is a party, or to claims made pursuant to Division 3.6
12 (commencing with Section 810), until the pending litigation or
13 claim has been finally adjudicated or otherwise settled.
14 (c) Personnel, medical, or similar files, the disclosure of which
15 would constitute an unwarranted invasion of personal privacy.
16 (d) Contained in or related to any of the following:
17 (1) Applications filed with any state agency responsible for the
18 regulation or supervision of the issuance of securities or of financial
19 institutions, including, but not limited to, banks, savings and loan
20 associations, industrial loan companies, credit unions, and
21 insurance companies.
22 (2) Examination, operating, or condition reports prepared by,
23 on behalf of, or for the use of, any state agency referred to in
24 paragraph (1).
25 (3) Preliminary drafts, notes, or interagency or intra-agency
26 communications prepared by, on behalf of, or for the use of, any
27 state agency referred to in paragraph (1).
28 (4) Information received in confidence by any state agency
29 referred to in paragraph (1).
30 (e) Geological and geophysical data, plant production data, and
31 similar information relating to utility systems development, or
32 market or crop reports, that are obtained in confidence from any
33 person.
34 (f) Records of complaints to, or investigations conducted by,
35 or records of intelligence information or security procedures of,

1 the office of the Attorney General and the Department of Justice,
2 and any state or local police agency, or any investigatory or security
3 files compiled by any other state or local police agency, or any
4 investigatory or security files compiled by any other state or local
5 agency for correctional, law enforcement, or licensing purposes.
6 However, state and local law enforcement agencies shall disclose
7 the names and addresses of persons involved in, or witnesses other
8 than confidential informants to, the incident, the description of
9 any property involved, the date, time, and location of the incident,
10 all diagrams, statements of the parties involved in the incident, the
11 statements of all witnesses, other than confidential informants, to
12 the victims of an incident, or an authorized representative thereof,
13 an insurance carrier against which a claim has been or might be
14 made, and any person suffering bodily injury or property damage
15 or loss, as the result of the incident caused by arson, burglary, fire,
16 explosion, larceny, robbery, carjacking, vandalism, vehicle theft,
17 or a crime as defined by subdivision (b) of Section 13951, unless
18 the disclosure would endanger the safety of a witness or other
19 person involved in the investigation, or unless disclosure would
20 endanger the successful completion of the investigation or a related
21 investigation. However, nothing in this division shall require the
22 disclosure of that portion of those investigative files that reflects
23 the analysis or conclusions of the investigating officer.

24 Customer lists provided to a state or local police agency by an
25 alarm or security company at the request of the agency shall be
26 construed to be records subject to this subdivision.

27 Notwithstanding any other provision of this subdivision, state
28 and local law enforcement agencies shall make public the following
29 information, except to the extent that disclosure of a particular
30 item of information would endanger the safety of a person involved
31 in an investigation or would endanger the successful completion
32 of the investigation or a related investigation:

33 (1) The full name and occupation of every individual arrested
34 by the agency, the individual's physical description including date
35 of birth, color of eyes and hair, sex, height and weight, the time
36 and date of arrest, the time and date of booking, the location of
37 the arrest, the factual circumstances surrounding the arrest, the
38 amount of bail set, the time and manner of release or the location
39 where the individual is currently being held, and all charges the

1 individual is being held upon, including any outstanding warrants
2 from other jurisdictions and parole or probation holds.

3 (2) Subject to the restrictions imposed by Section 841.5 of the
4 Penal Code, the time, substance, and location of all complaints or
5 requests for assistance received by the agency and the time and
6 nature of the response thereto, including, to the extent the
7 information regarding crimes alleged or committed or any other
8 incident investigated is recorded, the time, date, and location of
9 occurrence, the time and date of the report, the name and age of
10 the victim, the factual circumstances surrounding the crime or
11 incident, and a general description of any injuries, property, or
12 weapons involved. The name of a victim of any crime defined in
13 ~~Chapter 1 (commencing with Section 261) or Chapter 5~~
14 ~~(commencing with Section 281) of Part 1 of Title 9 of the Penal~~
15 ~~Code, or in Section 220, 273a, 273d, 273.5, 422.6, 422.7, 422.75,~~
16 ~~by Section 220, 261, 261.5, 262, 264, 264.1, 265, 266, 266a, 266b,~~
17 ~~266c, 266e, 266f, 266j, 267, 269, 273a, 273d, 273.5, 285, 286,~~
18 ~~288, 288a, 288.2, 288.3, 288.5, 288.7, 289, 422.6, 422.7, 422.75,~~
19 ~~646.9, or 647.6 of the Penal Code may be withheld at the victim's~~
20 ~~request, or at the request of the victim's parent or guardian if the~~
21 ~~victim is a minor. When a person is the victim of more than one~~
22 ~~crime, information disclosing that the person is a victim of a crime~~
23 ~~defined in any of the sections of the Penal Code set forth in this~~
24 ~~subdivision may be deleted at the request of the victim, or the~~
25 ~~victim's parent or guardian if the victim is a minor, in making the~~
26 ~~report of the crime, or of any crime or incident accompanying the~~
27 ~~crime, available to the public in compliance with the requirements~~
28 ~~of this paragraph.~~

29 (3) Subject to the restrictions of Section 841.5 of the Penal Code
30 and this subdivision, the current address of every individual
31 arrested by the agency and the current address of the victim of a
32 crime, where the requester declares under penalty of perjury that
33 the request is made for a scholarly, journalistic, political, or
34 governmental purpose, or that the request is made for investigation
35 purposes by a licensed private investigator as described in Chapter
36 11.3 (commencing with Section 7512) of Division 3 of the Business
37 and Professions Code. However, the address of the victim of any
38 crime defined in ~~Chapter 1 (commencing with Section 261) or~~
39 ~~Chapter 5 (commencing with Section 281) of Part 1 of Title 9 of~~
40 ~~the Penal Code, or in Section 220, 273a, 273d, 273.5, by Section~~

220, 261, 261.5, 262, 264, 264.1, 265, 266, 266a, 266b, 266c, 266e, 266f, 266j, 267, 269, 273a, 273d, 273.5, 285, 286, 288, 288a, 288.2, 288.3, 288.5, 288.7, 289, 422.6, 422.7, 422.75, 646.9, or 647.6 of the Penal Code shall remain confidential. Address information obtained pursuant to this paragraph may not be used directly or indirectly, or furnished to another, to sell a product or service to any individual or group of individuals, and the requester shall execute a declaration to that effect under penalty of perjury. Nothing in this paragraph shall be construed to prohibit or limit a scholarly, journalistic, political, or government use of address information obtained pursuant to this paragraph.

(g) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination, except as provided for in Chapter 3 (commencing with Section 99150) of Part 65 of the Education Code.

(h) The contents of real estate appraisals or engineering or feasibility estimates and evaluations made for or by the state or local agency relative to the acquisition of property, or to prospective public supply and construction contracts, until all of the property has been acquired or all of the contract agreement obtained. However, the law of eminent domain shall not be affected by this provision.

(i) Information required from any taxpayer in connection with the collection of local taxes that is received in confidence and the disclosure of the information to other persons would result in unfair competitive disadvantage to the person supplying the information.

(j) Library circulation records kept for the purpose of identifying the borrower of items available in libraries, and library and museum materials made or acquired and presented solely for reference or exhibition purposes. The exemption in this subdivision shall not apply to records of fines imposed on the borrowers.

(k) Records, the disclosure of which is exempted or prohibited pursuant to federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege.

(l) Correspondence of and to the Governor or employees of the Governor's office or in the custody of or maintained by the Governor's Legal Affairs Secretary. However, public records shall not be transferred to the custody of the Governor's Legal Affairs Secretary to evade the disclosure provisions of this chapter.

1 (m) In the custody of or maintained by the Legislative Counsel,
2 except those records in the public database maintained by the
3 Legislative Counsel that are described in Section 10248.

4 (n) Statements of personal worth or personal financial data
5 required by a licensing agency and filed by an applicant with the
6 licensing agency to establish his or her personal qualification for
7 the license, certificate, or permit applied for.

8 (o) Financial data contained in applications for financing under
9 Division 27 (commencing with Section 44500) of the Health and
10 Safety Code, where an authorized officer of the California Pollution
11 Control Financing Authority determines that disclosure of the
12 financial data would be competitively injurious to the applicant
13 and the data is required in order to obtain guarantees from the
14 United States Small Business Administration. The California
15 Pollution Control Financing Authority shall adopt rules for review
16 of individual requests for confidentiality under this section and for
17 making available to the public those portions of an application that
18 are subject to disclosure under this chapter.

19 (p) Records of state agencies related to activities governed by
20 Chapter 10.3 (commencing with Section 3512), Chapter 10.5
21 (commencing with Section 3525), and Chapter 12 (commencing
22 with Section 3560) of Division 4 of Title 1, that reveal a state
23 agency's deliberative processes, impressions, evaluations, opinions,
24 recommendations, meeting minutes, research, work products,
25 theories, or strategy, or that provide instruction, advice, or training
26 to employees who do not have full collective bargaining and
27 representation rights under these chapters. Nothing in this
28 subdivision shall be construed to limit the disclosure duties of a
29 state agency with respect to any other records relating to the
30 activities governed by the employee relations acts referred to in
31 this subdivision.

32 (q) Records of state agencies related to activities governed by
33 Article 2.6 (commencing with Section 14081), Article 2.8
34 (commencing with Section 14087.5), and Article 2.91
35 (commencing with Section 14089) of Chapter 7 of Part 3 of
36 Division 9 of the Welfare and Institutions Code, that reveal the
37 special negotiator's deliberative processes, discussions,
38 communications, or any other portion of the negotiations with
39 providers of health care services, impressions, opinions,
40 recommendations, meeting minutes, research, work product,

1 theories, or strategy, or that provide instruction, advice, or training
2 to employees.

3 Except for the portion of a contract containing the rates of
4 payment, contracts for inpatient services entered into pursuant to
5 these articles, on or after April 1, 1984, shall be open to inspection
6 one year after they are fully executed. If a contract for inpatient
7 services that is entered into prior to April 1, 1984, is amended on
8 or after April 1, 1984, the amendment, except for any portion
9 containing the rates of payment, shall be open to inspection one
10 year after it is fully executed. If the California Medical Assistance
11 Commission enters into contracts with health care providers for
12 other than inpatient hospital services, those contracts shall be open
13 to inspection one year after they are fully executed.

14 Three years after a contract or amendment is open to inspection
15 under this subdivision, the portion of the contract or amendment
16 containing the rates of payment shall be open to inspection.

17 Notwithstanding any other provision of law, the entire contract
18 or amendment shall be open to inspection by the Joint Legislative
19 Audit Committee and the Legislative Analyst's Office. The
20 committee and that office shall maintain the confidentiality of the
21 contracts and amendments until the time a contract or amendment
22 is fully open to inspection by the public.

23 (r) Records of Native American graves, cemeteries, and sacred
24 places and records of Native American places, features, and objects
25 described in Sections 5097.9 and 5097.993 of the Public Resources
26 Code maintained by, or in the possession of, the Native American
27 Heritage Commission, another state agency, or a local agency.

28 (s) A final accreditation report of the Joint Commission on
29 Accreditation of Hospitals that has been transmitted to the State
30 Department of Health Services pursuant to subdivision (b) of
31 Section 1282 of the Health and Safety Code.

32 (t) Records of a local hospital district, formed pursuant to
33 Division 23 (commencing with Section 32000) of the Health and
34 Safety Code, or the records of a municipal hospital, formed
35 pursuant to Article 7 (commencing with Section 37600) or Article
36 8 (commencing with Section 37650) of Chapter 5 of Division 3
37 of Title 4 of this code, that relate to any contract with an insurer
38 or nonprofit hospital service plan for inpatient or outpatient services
39 for alternative rates pursuant to Section 10133 or 11512 of the

Insurance Code. However, the record shall be open to inspection within one year after the contract is fully executed.

(u) (1) Information contained in applications for licenses to carry firearms issued pursuant to Section 12050 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department that indicates when or where the applicant is vulnerable to attack or that concerns the applicant's medical or psychological history or that of members of his or her family.

(2) The home address and telephone number of peace officers, judges, court commissioners, and magistrates that are set forth in applications for licenses to carry firearms issued pursuant to Section 12050 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department.

(3) The home address and telephone number of peace officers, judges, court commissioners, and magistrates that are set forth in licenses to carry firearms issued pursuant to Section 12050 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department.

(v) (1) Records of the Major Risk Medical Insurance Program related to activities governed by Part 6.3 (commencing with Section 12695) and Part 6.5 (commencing with Section 12700) of Division 2 of the Insurance Code, and that reveal the deliberative processes, discussions, communications, or any other portion of the negotiations with health plans, or the impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or records that provide instructions, advice, or training to employees.

(2) (A) Except for the portion of a contract that contains the rates of payment, contracts for health coverage entered into pursuant to Part 6.3 (commencing with Section 12695) or Part 6.5 (commencing with Section 12700) of Division 2 of the Insurance Code, on or after July 1, 1991, shall be open to inspection one year after they have been fully executed.

(B) If a contract for health coverage that is entered into prior to July 1, 1991, is amended on or after July 1, 1991, the amendment, except for any portion containing the rates of payment, shall be open to inspection one year after the amendment has been fully executed.

(3) Three years after a contract or amendment is open to inspection pursuant to this subdivision, the portion of the contract

1 or amendment containing the rates of payment shall be open to
2 inspection.

3 (4) Notwithstanding any other provision of law, the entire
4 contract or amendments to a contract shall be open to inspection
5 by the Joint Legislative Audit Committee. The committee shall
6 maintain the confidentiality of the contracts and amendments
7 thereto, until the contract or amendments to a contract is open to
8 inspection pursuant to paragraph (3).

9 (w) (1) Records of the Major Risk Medical Insurance Program
10 related to activities governed by Chapter 14 (commencing with
11 Section 10700) of Part 2 of Division 2 of the Insurance Code, and
12 that reveal the deliberative processes, discussions, communications,
13 or any other portion of the negotiations with health plans, or the
14 impressions, opinions, recommendations, meeting minutes,
15 research, work product, theories, or strategy of the board or its
16 staff, or records that provide instructions, advice, or training to
17 employees.

18 (2) Except for the portion of a contract that contains the rates
19 of payment, contracts for health coverage entered into pursuant to
20 Chapter 14 (commencing with Section 10700) of Part 2 of Division
21 2 of the Insurance Code, on or after January 1, 1993, shall be open
22 to inspection one year after they have been fully executed.

23 (3) Notwithstanding any other provision of law, the entire
24 contract or amendments to a contract shall be open to inspection
25 by the Joint Legislative Audit Committee. The committee shall
26 maintain the confidentiality of the contracts and amendments
27 thereto, until the contract or amendments to a contract is open to
28 inspection pursuant to paragraph (2).

29 (x) Financial data contained in applications for registration, or
30 registration renewal, as a service contractor filed with the Director
31 of Consumer Affairs pursuant to Chapter 20 (commencing with
32 Section 9800) of Division 3 of the Business and Professions Code,
33 for the purpose of establishing the service contractor's net worth,
34 or financial data regarding the funded accounts held in escrow for
35 service contracts held in force in this state by a service contractor.

36 (y) (1) Records of the Managed Risk Medical Insurance Board
37 related to activities governed by Part 6.2 (commencing with Section
38 12693) or Part 6.4 (commencing with Section 12699.50) of
39 Division 2 of the Insurance Code, and that reveal the deliberative
40 processes, discussions, communications, or any other portion of

1 the negotiations with health plans, or the impressions, opinions,
2 recommendations, meeting minutes, research, work product,
3 theories, or strategy of the board or its staff, or records that provide
4 instructions, advice, or training to employees.

5 (2) (A) Except for the portion of a contract that contains the
6 rates of payment, contracts entered into pursuant to Part 6.2
7 (commencing with Section 12693) or Part 6.4 (commencing with
8 Section 12699.50) of Division 2 of the Insurance Code, on or after
9 January 1, 1998, shall be open to inspection one year after they
10 have been fully executed.

11 (B) In the event that a contract entered into pursuant to Part 6.2
12 (commencing with Section 12693) or Part 6.4 (commencing with
13 Section 12699.50) of Division 2 of the Insurance Code is amended,
14 the amendment shall be open to inspection one year after the
15 amendment has been fully executed.

16 (3) Three years after a contract or amendment is open to
17 inspection pursuant to this subdivision, the portion of the contract
18 or amendment containing the rates of payment shall be open to
19 inspection.

20 (4) Notwithstanding any other provision of law, the entire
21 contract or amendments to a contract shall be open to inspection
22 by the Joint Legislative Audit Committee. The committee shall
23 maintain the confidentiality of the contracts and amendments
24 thereto until the contract or amendments to a contract are open to
25 inspection pursuant to paragraph (2) or (3).

26 (5) The exemption from disclosure provided pursuant to this
27 subdivision for the contracts, deliberative processes, discussions,
28 communications, negotiations with health plans, impressions,
29 opinions, recommendations, meeting minutes, research, work
30 product, theories, or strategy of the board or its staff shall also
31 apply to the contracts, deliberative processes, discussions,
32 communications, negotiations with health plans, impressions,
33 opinions, recommendations, meeting minutes, research, work
34 product, theories, or strategy of applicants pursuant to Part 6.4
35 (commencing with Section 12699.50) of Division 2 of the
36 Insurance Code.

37 (z) Records obtained pursuant to paragraph (2) of subdivision
38 (c) of Section 2891.1 of the Public Utilities Code.

39 (aa) A document prepared by or for a state or local agency that
40 assesses its vulnerability to terrorist attack or other criminal acts

1 intended to disrupt the public agency's operations and that is for
2 distribution or consideration in a closed session.

3 (bb) Critical infrastructure information, as defined in Section
4 131(3) of Title 6 of the United States Code, that is voluntarily
5 submitted to the California Office of Homeland Security for use
6 by that office, including the identity of the person who or entity
7 that voluntarily submitted the information. As used in this
8 subdivision, "voluntarily submitted" means submitted in the
9 absence of the office exercising any legal authority to compel
10 access to or submission of critical infrastructure information. This
11 subdivision shall not affect the status of information in the
12 possession of any other state or local governmental agency.

13 (cc) All information provided to the Secretary of State by a
14 person for the purpose of registration in the Advance Health Care
15 Directive Registry, except that those records shall be released at
16 the request of a health care provider, a public guardian, or the
17 registrant's legal representative.

18 Nothing in this section prevents any agency from opening its
19 records concerning the administration of the agency to public
20 inspection, unless disclosure is otherwise prohibited by law.

21 Nothing in this section prevents any health facility from
22 disclosing to a certified bargaining agent relevant financing
23 information pursuant to Section 8 of the National Labor Relations
24 Act (29 U.S.C. Sec. 158).

25 SEC. 2. Section 293 of the Penal Code is amended to read:

26 293. (a) Any employee of a law enforcement agency who
27 personally receives a report from any person, alleging that the
28 person making the report has been the victim of a sex offense,
29 shall inform that person that his or her name will become a matter
30 of public record unless he or she requests that it not become a
31 matter of public record, pursuant to Section 6254 of the
32 Government Code.

33 (b) Any written report of an alleged sex offense shall indicate
34 that the alleged victim has been properly informed pursuant to
35 subdivision (a) and shall memorialize his or her response.

36 (c) No law enforcement agency shall disclose to any person,
37 except the prosecutor, parole officers of the Department of
38 Corrections and Rehabilitation, hearing officers of the parole
39 authority, probation officers of county probation departments, or
40 other persons or public agencies where authorized or required by

1 law, the address of a person who alleges to be the victim of a sex
2 offense.

3 (d) No law enforcement agency shall disclose to any person,
4 except the prosecutor, parole officers of the Department of
5 Corrections and Rehabilitation, hearing officers of the parole
6 authority, probation offices of county probation departments, or
7 other persons or public agencies where authorized or required by
8 law, the name of a person who alleges to be the victim of a sex
9 offense, if that person has elected to exercise his or her right
10 pursuant to this section and Section 6254 of the Government Code.

11 (e) For purposes of this section, sex offense means any crime
12 listed in paragraph (2) of subdivision (f) of Section 6254 of the
13 Government Code ~~that is also defined in Chapter 1 (commencing~~
14 ~~with Section 261) or Chapter 5 (commencing with Section 281)~~
15 ~~of Part 1 of Title 9, or in Section 647.6..~~

16 (f) Parole officers of the Department of Corrections and
17 Rehabilitation and hearing officers of the parole authority, and
18 probation officers of county probation departments, shall be entitled
19 to receive information pursuant to subdivisions (c) and (d) only if
20 the person to whom the information pertains alleges that he or she
21 is the victim of a sex offense, the alleged perpetrator of which is
22 a parolee who is alleged to have committed the sex offense while
23 on parole, or in the case of a county probation officer, the person
24 who is alleged to have committed the sex offense is a probationer
25 or is under investigation by a county probation department pursuant
26 to Section 1203.